

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT WOMBACKER,

Plaintiff

v.

AMAZON.COM SERVICES, INC.,

Defendant

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CIVIL ACTION NO.:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Robert Wombacker, a resident of Lackawanna County, Pennsylvania, by and through his attorneys, brings this civil action for damages against the above named Defendant, Amazon.com Services, Inc., demands a trial by jury, and complains and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction of the claims set forth in this Complaint is proper in this judicial district pursuant to the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 *et. seq.* (the “ADEA”), the Americans with Disabilities Act, as amended, 42 U.S.C. §12101, *et seq.* (the “ADA”), and 28 U.S.C. §§1331 and 1343.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to these claims occurred in this judicial district.

THE PARTIES

3. Plaintiff, Robert Wombacker (“Mr. Wombacker”), is an adult individual residing at 625 Electric Street, Scranton, Lackawanna County, Pennsylvania 18509.

4. Defendant, Amazon.com Services, Inc. (“Amazon”), is a Delaware limited liability company which operates from a business location at 298 First Avenue, Gouldsboro, Lackawanna County, Pennsylvania 18424.

5. During the period of Plaintiff’s employment, Amazon was an “employer” as defined by the ADEA and the ADA.

ADMINISTRATIVE PROCEEDINGS

6. On or about May 11, 2023, Plaintiff filed a Complaint with the Equal Employment Opportunity Commission (“EEOC”), which was docketed as charge number 530-2023-05291.

7. Plaintiff received a Notice of Right to Sue (Issued on Request) from the EEOC dated May 24, 2023.

8. All necessary and appropriate administrative prerequisites to this action have occurred.

STATEMENT OF FACTS

9. Mr. Wombacker worked for Amazon successfully as a warehouse worker for about 10 years before he was abruptly terminated on or about March 25, 2023, at the age of 55.

10. Mr. Wombacker is disabled as a result of a prior head injury, as a result of which he walks with a limp and has limited mobility in one of his arms. Mr. Wombacker is also limited from working at heights.

11. Mr. Wombacker is considered disabled under the ADA.

12. For the most part, Amazon has accommodated Mr. Wombacker's physical limitations; however, in or around February 2023, Mr. Wombacker mentioned to Amazon that he was going to apply for Social Security Disability Insurance (SSDI) because it was becoming more difficult for him to do the warehouse work due to his disabilities and age.

13. However, Mr. Wombacker did not state that he intended to quit his job or give any date when he intended to stop working.

14. On or about March 25, 2023, Mr. Wombacker was terminated for allegedly making an inappropriate comment to a co-worker; however he did not do what Amazon suggested he did, he was not provided an opportunity to defend himself, and Amazon did not have any credible evidence to support the allegation.

15. Mr. Wombacker was terminated because of his age and disabilities because once Mr. Wombacker suggested to Amazon that he was going to seek SSDI because of his age and disabilities, Mr. Wombacker was terminated under false pretenses even though he did not tell Amazon that he was resigning.

16. Defendant's discrimination based upon Mr. Wombacker's actual disability, record of a disability, and/or perceived disability, and his age, violated Mr. Wombacker's rights under the ADEA and the ADA.

COUNT I

Violations of the ADEA

17. All prior paragraphs are incorporated herein as if set forth fully below.

18. Amazon discriminated against Mr. Wombacker due to his age, in violation of the ADEA, by terminating him based upon his age.

19. As a consequence of Amazon's actions and failures to act, Mr. Wombacker was subjected to significant economic loss and great damage to his career and professional standing.

20. The actions of Amazon set forth above constitute violations of Mr. Wombacker's federal civil rights under the ADEA.

WHEREFORE, Plaintiff, Robert Wombacker, seeks judgment in his favor and against Defendant, Amazon.com Services, Inc., for (a) backpay and benefits; (b) reinstatement and/or front pay and benefits in lieu of reinstatement; (c) interest

on his monetary losses at the prevailing rate; (d) liquidated damages; (e) attorneys' fees and costs; and (f) such legal and/or equitable relief as allowed by law.

COUNT II

ADA Violations

21. All prior paragraphs are incorporated herein as if set forth fully below.

22. Mr. Wombacker is within the protective class of individuals as designated by the ADA.

23. Mr. Wombacker is a qualified individual with a disability.

24. Mr. Wombacker's disability substantially limits his ability to perform major life activities.

25. Mr. Wombacker was able to perform the essential functions of his job with or without a reasonable accommodation.

26. Amazon violated the ADA by discriminating against Mr. Wombacker because of his disability, and consequently terminating Mr. Wombacker for pretextual reasons.

27. The illegal discrimination was based in whole or in part upon Mr. Wombacker's disability.

28. As a direct and proximate result of the conduct of Amazon in violating the ADA by discriminating against Mr. Wombacker on the basis of his disability, Mr. Wombacker has been permanently and irreparably harmed and

damaged and has and will continue to lose benefits of employment such as lost earnings, lost employment benefits, and non-economic damages in the form of embarrassment, humiliation, and anxiety.

WHEREFORE, Plaintiff, Robert Wombacker, demands that the Court declare the conduct engaged in by Defendant, Amazon.com Services, Inc., to be in violation of Mr. Wombacker's rights under the Americans With Disabilities Act and award all compensatory damages, damages for failure to provide reasonable accommodation, lost wages (and raises) and benefits, front pay and back pay, lost future earning capacity, damages for emotional distress, punitive damages, reasonable attorneys' fees and costs incurred herein and any pre and/or post judgment interest on all money awarded in damages for delay, together with any other relief available under the Americans with Disabilities Act.

DEMAND FOR JURY

Pursuant to Federal Rule of Civil Procedure 38(b) and otherwise, Plaintiff respectfully demands a trial by jury.

Respectfully submitted,

Weisberg Cummings, P.C.

Date: June 2, 2023

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